IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 645 OF 2004
In
SPECIAL CIVIL APPLICATION NO. 12247 OF 2002
With
CIVIL APPLICATION NO. 1547 OF 2004
In
LETTERS PATENT APPEAL NO. 645 OF 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANK OF INDIA - Appellant(s)
Versus
RAJENDRA G. PARIKH - Respondent(s)

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Appearance :
M/S. NANAVATI ASSOCIATES for Appellant.
MR. N.K. MAJMUDAR for Respondent.

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG &
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 11/07/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Heard the learned Counsel for the parties.

2. During the course of the departmental inquiry, a finding was recorded against the respondent-workman, and he was visited with the capital punishment of termination. Being aggrieved by the said punishment, he made a reference to the Industrial Tribunal. The Industrial Tribunal gave proper opportunity to the parties and after hearing them, recorded a finding that the departmental inquiry was vitiated because of non-supply of particular documents, which could have material bearing in the matter and on the defence of the workman. The order not being palatable to the Bank, they preferred Special Civil Application No.12247 of 2002. The learned single Judge granted liberty in favour of the appellant to throw a challenge to the said findings in duly constituted proceedings if the Establishment was required to challenge the final outcome of the proceedings pending before the Industrial Tribunal, but, the appellant still feels that the action taken by it was absolutely justified and is before this Court.

3. Learned Counsel for the appellant took us through the findings recorded by the Industrial Tribunal and other material records and, submitted that the findings recorded by the Industrial Tribunal are patently wrong. It is submitted by him that the documents, said to have not been supplied to the workman, were not material for just and proper decision and non-supply was not to cause any prejudice to the defence of the workman. His submission is that in a case like the present, the Industrial Tribunal was not required to interfere in the matter.

4. Learned Counsel for the respondent on the other hand submitted that the order passed by the Industrial Tribunal is an order of interim nature, though for certain purposes, it is final and as the said interim order can still be challenged by the Establishment in the proceedings, which the Establishment is required to file or may file against the final outcome of the labour proceedings and as the learned single Judge has refused to interfere in the matter, the Division Bench, in its jurisdiction under Clause-15 of the Letters

Patent, should not interfere in the matter.

5. After hearing the learned Counsel for the parties at length, and on going through the findings recorded by the Industrial Tribunal and the liberty extended by the learned single Judge in favour of the appellant, we are of the opinion that the High Court is not required to interfere in each and every matter at each and every step. We do not know that what would be the final outcome of the labour matter. If the Industrial Tribunal interferes in the matter and makes any order against the employer, then, the interim order impugned in these proceedings, which would lead to the final order, can certainly be challenged in duly constituted proceedings. We refuse to interfere in the matter. The appeal is dismissed.

6. Consequently, the Civil Application is also rejected. Rule is discharged. Interim relief granted earlier shall stand vacated.

[*R.S.Garg, J.*]

[***Ravi R.Tripathi, J.***]

*kamlesh**